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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/057,861	04/09/98	SACHS	H 12172004530

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EXAMINER
VU, V

ART UNIT	PAPER NUMBER
2154	24

DATE MAILED: 07/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/057,861

Applicant(s)

Sachs et al

Examiner

V. Vu

Group Art Unit

2154

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4-4-01 (sub. Declaration)
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 131-146 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 131-146 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 12, 19
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

DETAILED ACTION

1. Applicant's petition filed 4/4/2001 for adding an inventor in the newly executed declaration is acknowledged and approved.

2. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 USC 120 as follows:

The present application does not have specific reference to earlier application 08/754,337 in the specification. See MPEP 201.11. It is suggested that applicant to provide complete continuation data for the earlier application in the first sentence of the specification following the title.

3. Applicant is also required to provide serial number for the incorporated by reference application in page 4 of the specification. Since the referenced application (S/N 08/147,800), which was also cited in earlier application (S/N 08/147,797), was in fact abandoned and had a child application (S/N 08/422,753) that became a patent (5,560,028), it is strongly suggested that applicant to update this incorporation by reference to include the family data of this referenced application. This is important because essential material should be incorporated by reference to a

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patent rather than to an abandoned application where the material is not readily available.

Non-Art rejections:

4. The following non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy so as to prevent the unjustified or improper timewise extension of the right to exclude granted by a patent. In re Sarett, 327 F2.d 1005, 140 USPQ 474 (CCPA 1964); In re Schneller, 397 F2.d 350, 158 USPQ 210 (CCPA 1968); In re White, 405 F2.d 904, 160 USPQ 644 (CCPA 1969); In re Thorington, 418 F2.d 528, 163 USPQ 644 (CCPA 1969); In re Vogel, 422 F2.d 438, 164 USPQ 619 (CCPA 1970); In re Van Ornam, 686 F2.d 937, 214 USPQ 761 (CCPA 1970); In re Longi, 759 F2.d 887, 225 USPQ 645 (Fed. Cir. 1985); and In re Goodman, 29 USPQ 2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

5. Claims 131-146 are rejected under the judicially created doctrine of double patenting as being unpatentable over prior U.S. Patent No. 5,560,028.

The subject matter recited in claims 131-146 of the patent application is fully disclosed in the patent. The allowance of these claims would extend the rights to exclude already granted in claims 1-23 of the patent. Furthermore, there is no apparent reason why applicant was prevented from presenting the claims in the application for examination during the prosecution of the issued patent.

6. Claims 131-138 and 145 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Specifically, the present specification fails to disclose mapping "instruction slots" to the execution units. An "instruction slot" as defined in the '056 patent (Hull et al) has a fixed position within the instruction bundle. Each "instruction slot" is mapped to an execution unit using a predefined mapping template (see Hull's figure 4). On the other hand, the present

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specification discloses mapping instructions to the execution units where the instructions can be placed at any arbitrary location in the instruction cache.

Conclusion:

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is (703) 305-9597. The examiner can normally be reached on Monday through Friday from 8:00am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An, can be reached on (703) 305-9678.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



**VIET D. VU
PRIMARY EXAMINER**

Art Unit 2154
7/24/01